

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

TONA GRIMMETT,

Plaintiff,

SOUTHEAST MICHIGAN SURGICAL
HOSPITAL, LLC, OAKLAND MRI, LLC, and
MICHIGAN AMBULATORY SURGICAL
CENTER, LLC,

Intervening Plaintiffs,

v.

Case No. 14-14646

ENCOMPASS INDEMNITY COMPANY,

HON. AVERN COHN

Defendant.

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**ORDER DENYING WITHOUT PREJUDICE DEFENDANT'S AMENDED MOTION FOR
SUMMARY JUDGMENT, (Doc. 70)**

This is a no-fault benefits case. Plaintiffs include the driver—the insured—and medical providers. The accident took place on March 4, 2013. The claim consists of:

- medical services and expenses,
- replacement services,
- attendant care, and
- work loss

Exhibit A reflects the chronology of the accident and medical services and expenses. There is in the record no documentation of replacement services, work loss or attendant care.

Defendant insurance company denies liability on several grounds including lack of causation, lack of documentation and fraud.

On May 26, 2015, plaintiff was videotaped engaged in activities which may challenge any claim she suffered from a physical condition that disabled her. A claim for benefits that is legitimate at its inception may lose its legitimacy at some point. The evidence as to fraudulent conduct vitiating the legitimacy of plaintiff's claim is ambiguous. If there is evidence of fraud, the date that the claim changed from a legitimate right to benefits to a fraudulent claim of benefits is uncertain.

The record is long and complex, including contradictory medical opinions and representations of the parties as to documentary support for the claims made by plaintiff and third-party medical providers.

The Court cannot say there is no genuine issue of material fact over various items of damages or the condition of plaintiff on various dates forward from the accident. Accordingly, the record is not ripe for summary judgment in defendant's favor as to any particular item of insurable damages suffered by plaintiff or any third-party plaintiff.

SO ORDERED.

S/Avern Cohn
AVERN COHN
UNITED STATES DISTRICT JUDGE

Dated: April 28, 2017
Detroit, Michigan